

SEN Policy Research Forum

POLICY PAPER

**The Coalition Government's policy
on SEND: aspirations and
challenges?**

September 2012

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Chapter 1

Introduction to Policy Paper

This Paper is based on a seminar about Government policy on *SEND - aspirations and challenges?* held on 21 June, 2012, Birkbeck College, London.

This seminar focussed on the aspirations of the Government's policy for special educational needs and disability and the challenges it is seeking to address one year after the Green Paper on SEND was issued. It aimed to:

1. provide an analysis and critique of emerging policy and practice following the SEN Green Paper and the initiation of the SEND Pathfinders,
2. consider potential ways forward and other policy alternatives.

The seminar considered the emerging SEND policy and practice in the context of and in interaction with mainstream policy developments, such as the national funding proposals, Academies/ free schools and the new Ofsted framework. It also built on a previous event held the previous year on the prospects of the SEN Green Paper (see details below).

Programme:

1. Introduction: Peter Gray (Policy Consultant) and Brahm Norwich (University of Exeter): An overview of issues emerging as the situation changes.
2. Philippa Stobbs (Council for Disabled Children): Overview of previous national SEND achievements and their fit with current SEND policy directions.
3. Sharon Hodgson MP, (Shadow Minister for Children and Families): Labour Party's SEN review and perspectives.
4. Summary of small group discussions.

SEN Policy Options Steering Group

This Group organised the initial ESRC - Cadbury Trust series on policy options for special educational needs in the early 1990s. The success of the first series led to the second and subsequent series that have been supported financially by NASEN. (See the list of these 26 policy papers at the end of this section).

The Steering Group has representatives from local authority administrators, Government agencies, voluntary organisations, professional associations, universities and research. These events are intended to consider current and future policy issues in the field in a proactive way. They are planned to interest all those concerned with policy matters in special educational needs.

Policy Options Steering group membership

The current membership of the SEN Policy Options Steering Group is: Professor Julie Dockrell, Institute of Education; Peter Gray, SEN Policy Consultant; Dr Seamus Hegarty, Professor Geoff Lindsay, Warwick University; Professor Ingrid Lunt, University of Oxford; Professor Brahm Norwich, School of Education, Exeter University; Debbie Orton, National Strategies; Linda Redford, Policy Consultant; Penny Richardson, Educational Consultant; Philippa Russell, Disability Rights Commission and Adviser; Philippa Stobbs, Council for Disabled Children (CDC); Janet Thompson, Ofsted; Professor Klaus Wedell, Institute of Education, London University; Dr Tom Williams EPS, East Ayrshire.

SEN Policy Research Forum

The SEN Policy Research Forum will from now incorporate the aims and work of SEN

Policy Options group in a new format and with some expanded aims.

The Forum now has a website at:

<http://www.sen-policyforum.org.uk/index.php>

The aim of the Forum is to contribute intelligent analysis, knowledge and experience to promote the development of policy and practice for children and young people with special educational needs and disabilities. The Forum will be concerned with children and young people with special educational needs and disabilities from pre-school to post 16. It will cover the whole of the UK and aim to:

1. provide timely policy review and critique,
2. promote intelligent policy debate,
3. help set longer term agendas – acting like a think-tank,.
4. deliberate over and examine policy options in the field.
5. inform research and development work in the field.
6. contribute to development of more informed media coverage of SEND policy issues.

The Forum also recognises the uncertainties over what counts 'special educational needs' and 'disabilities' in relation to a wider concept of 'additional needs'. These will be among the many issues examined through the Forum.

If you would like to join the Forum go to the website and follow link to registering as a member. You will be invited to future seminars and be able to use the website.

For further information please contact the co-coordinators of the Forum, Brahm Norwich, Graduate School of Education, University of Exeter, Heavitree Road, Exeter EX1 2LU (b.norwich@exeter.ac.uk) or Peter Gray (pgray@sscyp) .

Past Policy Options Papers (see website for downloadable copies)

1. Bucking the market: Peter Housden, Chief Education Officer, Nottinghamshire LEA

2. Towards effective schools for all: Mel Ainscow, Cambridge University Institute of Education

3. Teacher education for special educational needs: Professor Peter Mittler, Manchester University

4. Resourcing for SEN: Jennifer Evans and Ingrid Lunt, Institute of Education, London University

5. Special schools and their alternatives: Max Hunt, Director of Education, Stockport LEA

6. Meeting SEN: options for partnership between health, education and social services: Tony Dessent, Senior Assistant Director, Nottinghamshire LEA

7. SEN in the 1990s: users' perspectives: Micheline Mason, Robina Mallet, Colin Low and Philippa Russell

8. Independence and dependence? Responsibilities for SEN in the Unitary and County Authorities: Roy Atkinson, Michael Peters, Derek Jones, Simon Gardner and Phillipa Russell

9. Inclusion or exclusion: Educational Policy and Practice for Children and Young People with Emotional and Behavioural Difficulties: John Bangs, Peter Gray and Greg Richardson

9. Baseline Assessment and SEN: Geoff Lindsay, Max Hunt, Sheila Wolfendale, Peter Tymms

10. Future policy for SEN: Response to the Green Paper: Brahm Norwich, Ann Lewis, John Moore, Harry Daniels

11. Rethinking support for more inclusive education: Peter Gray, Clive Danks, Rik Boxer, Barbara Burke, Geoff Frank, Ruth Newbury and Joan Baxter

12. Developments in additional resource allocation to promote greater inclusion:

John Moore, Cor Meijer, Klaus Wedell, Paul Croll and Diane Moses.

13. Early years and SEN: Professor Sheila Wolfendale and Philippa Russell

14. Specialist Teaching for SEN and inclusion: Annie Grant, Ann Lewis and Brahm Norwich

15. The equity dilemma: allocating resources for special educational needs: Richard Humphries, Sonia Sharpe, David Ruebain, Philippa Russell and Mike Ellis

16. Standards and effectiveness in special educational needs: questioning conceptual orthodoxy: Richard Byers, Seamus Hegarty and Carol Fitz Gibbon

17. Disability, disadvantage, inclusion and social inclusion: Professor Alan Dyson and Sandra Morrison

18. Rethinking the 14-19 curriculum: SEN perspectives and implications: Dr Lesley Dee, Christopher Robertson, Professor Geoff Lindsay, Ann Gross, and Keith Bovair

19. Examining key issues underlying the Audit Commission Reports on SEN: Chris Beek, Penny Richardson and Peter Gray

20. Future schooling that includes children with SEN / disability: Klaus Wedell, Ingrid Lunt and Brahm Norwich

VI. Policy Options Papers from sixth seminar series

21. Taking Stock: integrated Children's Services, Improvement and Inclusion:

Margaret Doran, Tony Dessent and Professor Chris Husbands

22. Special schools in the new era: how do we go beyond generalities?

Chris Wells, Philippa Russell, Peter Gray and Brahm Norwich

23. Individual budgets and direct payments: issues, challenges and future implications for the strategic management of SEN

Christine Lenehan, Glenys Jones Elaine Hack and Sheila Riddell

24. Personalisation and SEN

Judy Sebba, Armando DiFinizio, Alison Peacock and Martin Johnson.

25. Choice-equity dilemma in special educational provision

John Clarke, Ann Lewis, Peter Gray

26. SEN Green Paper 2011: progress and prospects

Brian Lamb, Kate Frod and Debbie Orton

27. A school for the future - 2025: Practical Futures Thinking

Alison Black.

28. The Coalition Government's policy on SEND: aspirations and challenges? P.

Gray, B. Norwich, P Stobbs, and S Hodgson.

Copies of most of these papers can now be downloaded from the website of the SEN Policy Research Forum as well as the NASEN website look for SEN Policy Options public pages for downloading these past copies.

SEN Policy Research Forum:

<http://www.sen-policyforum.org.uk/>

NASEN website look for SEN Policy Options public pages

<http://www.nasen.org.uk/policy-option-papers/>

Chapter 2:

An overview of issues emerging as the policy context changes

Peter Gray and Brahm Norwich

Peter Gray:

In this paper, I will provide an analysis and critique of key Government policy documents that have emerged since the Green Paper, focusing particularly on two of these: 'Support & Aspiration: progress and next steps' (May 2012); and the new national proposals for the way in which schools are funded for SEND ('School funding reform: next steps towards a fairer system': March 2012).

There are aspects of the Next Steps document that are positive, such as the notion of local parent forums and greater local involvement in shaping services and provision. I also like the parts about schools being encouraged to work together to provide for permanently excluded pupils or those at risk of permanent exclusion. The notion of a 'single assessment', as an idea, is attractive even though we still do not know exactly what this will mean in practice. I am also positive about the stronger focus on post 16 provision and the need for a greater range of options for students with SEND at that level. However, my overall impression of the Next Steps paper is that it is a bit piecemeal: too much 'cut and paste' of good work that is going on already rather than a sound set of proposals for the future. In the background are some more fundamental issues, such as budget reductions, that are going to make it much more difficult to generalise individual examples of positive practice.

My major focus in this paper is on the broader thrust of Government policy in this area: it is becoming increasingly clear that the key political emphasis is on the marketization of SEND. We can see the application of market ideas at both consumer and provider levels.

Consumer features

At the consumer end, we have 'personalised budgets': parents potentially having the financial wherewithal to exercise 'real choice'. There seems to be some ambivalence at Government level about how far this should extend. However, the Pathfinder projects are actively exploring this aspect at the moment and the funding proposals are assuming it might go further.

Within the new school funding approach, there is a shift towards a more pupil-led system, in which a greater proportion of SEND funding follows the individual child, with the option in future for parents to carry that around with them. Interestingly, the DFE is arguing that it wants to reduce 'perverse incentives'. This is a concept I have been using for some time (to describe how pupil-led funding systems incentivise over-declaration of need and an emphasis on deficits). However, the DFE concept has a different meaning. The emphasis is on perverse incentives *against parental choice*. In their view, the current approach to funding special schools and units inhibits this by funding the total value of school places 'up front', leaving parents with little capacity to explore a more diverse range of options.

Provider features

At the provider end, market elements include 'freestanding schools' (the extension of the academisation agenda to the special school/unit sector), 'greater diversity' (creation of free special schools) and the capacity for 'successful' (ie popular) schools to grow. The new SEND funding approach presents providers, on the one hand, with less stability and

security (as they are only funded for places at a core value (£10,000)). On the other hand, there is encouragement to expand the extent and range of their services in a more open and competitive market.

Ambivalence about regulatory functions

The other aspect that we have discussed before at SEN Policy Options seminars is the balance between the market-led model and regulatory frameworks. What is the place for regulation in the new SEND world? The policy that we see coming through is ambivalent about this. It wants to emphasise the market but is less clear about some of the regulatory aspects that are still needed to make the system work. One example is *quality assurance*: how are we going to ensure in the new market that good quality is provided? Is this guaranteed by parental choice? And what about *ensuring child/parent entitlement*? Parents may opt for an alternative school having had a poor welcome from the school on their doorstep, but is this real choice? Do they not have some right to a better quality local response? And are parental choice and child entitlement always the same? How are we going to ensure *equity* and avoid a situation where resourceful parents get what they want, drawing funding away from parents and children who do not have such a powerful voice? And will there be any safeguards, in a world of increasing financial pressures, to ensure *value for money*?

Finally, there is reference to the continuing strategic role that Local Authorities will be expected to play. What will this amount to exactly? Will it be about proactively reviewing and shaping provision and services so that they meet the breadth of child and family need? We found some very good examples of this in National Audit of Support, Services and Provision for Low Incidence Needs (Gray et al 2006). Or will it just be a case of tracking the market and working with the Education Funding Agency to shift funding and places to schools 'where they're needed'/where the demand lies. In the next section of this paper, I want to look at the Government's stance on some of these issues in more detail.

Ensuring quality/entitlement: the national level

The Next Steps paper does say some things about quality assurance. There is a proposal (through OfSTED) to introduce some more specific performance indicators for mainstream school SEND. These include attainment measures for low attaining pupils and outcomes for those entitled to free school meals (linked to the Government's Pupil Premium initiative). There is also a mention of using P scales to benchmark school performance with pupils attaining below National Curriculum level 1. Longer term outcomes will be evaluated through looking at post 16 destinations (NEET data).

The emphasis here is predominantly on narrower attainment, with a focus on quantitative measures. Proposed analyses, as with the previous Government, tend to be at a group rather than individual pupil level. There are a number of issues with this approach. Firstly, there is an assumption that low attainers, children from socially disadvantaged backgrounds and pupils with SEND are a relatively homogeneous group. Although there may be some level of correlation for 'high incidence' needs (general learning and behaviour difficulties), the links are much weaker in other areas of disability. Secondly, Richard Byers and others¹ have previously highlighted the greater levels of individual difference associated with pupils with more significant and complex learning difficulties and questioned the comparability of P scale data.

¹ In a previous Policy Options seminar (2002)

There are also risks that crude measures of SEND performance will set up a new range of perverse incentives (such as selection of those pupils with SEND – or FSM entitlement – who are most likely to ‘improve’, and greater use of diagnostic labels to ensure higher attaining pupils are included within the SEND group).

There is a reference to the use of more qualitative evidence, for example the use of parents’ experience (including parents of pupils with SEND, as recommended by the Lamb Inquiry). However, it remains unclear how such evidence will be sampled and what impact this will have on overall school judgements.

A more fundamental issue in the evaluation of mainstream SEND performance is that OfSTED’s current focus is exclusively on pupils who are part of the school community. In an education market, schools are not always receptive to pupils whose attainments may lower their overall attainment profile. They can create formal and informal barriers to admission. The proposed OfSTED approach does not pick this up.

A final point (which I mentioned at the recent Labour Party SEND Policy Review), is that there is nothing that addresses the more fundamental market conflict issues. How many schools at the moment would be prepared to stand up locally or nationally and say how good they are at meeting SEND? Do they want to advertise that? The fear for such schools is that a positive market profile in this area may skew their intake and create a more negative image at the broader level. The new Government documents do little to address this issue.

Ensuring quality/entitlement: the local level

The Next Steps paper introduces the concept of a ‘local offer’, which is intended to set out to parents more clearly what services and provision are available, so that they can make more informed choices. Might this make some contribution to strengthening child and parent entitlement and ensuring quality?

On the positive side, ‘local’ has the benefit of allowing sensitivity to context, and promoting local ownership and commitment. However, when it comes to entitlements, one wonders whether this is the whole story – or whether it represents a ‘cop-out’ in terms of national expectations. The Government paper is unclear about the extent to which the offer will include schools or whether they will be bound by it. There is an emphasis on consensus – which may be a good idea – but what if people disagree? How will a balance be achieved between the expectations of parents and the perspectives of schools?

Moreover, there is no clarity about how the local offer is going to be evaluated. We are all very good at writing policies but what will these mean in reality? Who is going to judge whether the local offer is appropriate? And who is going to assess how far the promises in the local offer are delivered in practice?

The other aspect for me, which Philippa Stobbs may touch on in her presentation, is where some of the broader entitlements fit in. For example, there is little mention in the Government paper of Disability Discrimination legislation, promoting curricular/social access, or entitlement to specialist services.

Equity/value for money: national level

I will now move on to equity and value for money. It is interesting that the Coalition has emphasised very strongly that we are now working under severe budgetary constraints and that ‘we are all in this together’. However, in all their discussions of SEND developments, there is little mention of this aspect. They are quite ambiguous about the

role of local authorities in managing special needs expenditure and, in effect, 'controlling' the markets. This is another example of the attempt to downplay regulatory features in emphasising 'choice'.

Many local authorities have been working towards what I would call a 'managed approach', not just for the purpose of budget saving, but to try and ensure that a reasonable standard of service is delivered to all in an equitable and cost-effective way. The new Government papers give little indication of how this area will be addressed in future.

Up until now, Education has been funded at local authority level largely through the Dedicated Schools Grant (DSG). SEND funding has been partly distributed through mainstream and special school formula budgets and partly held at the centre for specialist services and for children in mainstream with more complex and significant difficulties. The new funding arrangements distinguish between the 'Schools Block' (general mainstream school funding) and the 'High Needs Block' (which now covers most of the cost of the funding for children with 'high needs' across the mainstream and special school sectors). In 2013/14, expenditure across these two blocks will be 'constrained' within the overall DSG allocated to local areas by central government. However, the picture beyond 2014 is very unclear. There are strong indications that the Government wishes to introduce a national funding formula for the Schools Block which will iron out some historical inequities. This leaves the fundamental issue of how High Needs Block funding will be allocated to local areas. The DFE's current response is that funding will be 'based on history', as there are no reliable indicators available to judge relative local need. This is clearly inequitable. It will penalise Local Authorities that have been more effective in managing their overall spending. Those that have spent more (for example on specialist provision), and been more reactive, will have more funding available to work with. On the other hand, if the High Needs Block is going to be allocated on some form of demographic indicator, Local Authorities need to know that now, so that they can plan to scale down their existing spend if they are likely to receive a lower level of funding in future.

Challenges to a 'managed approach'

The new Government funding model for SEND involves a 'place plus' approach. Mainstream and special schools will receive a core budget at the beginning of each financial year, with the remaining funding for High Needs pupils coming as a 'top-up' for each individual child. The intention of this system is to create more market flexibility. In future, parents may become 'commissioners' themselves, using top-up money to 'shop around'.

It is unclear how this market will work in practice. How far will provision become more 'consumer-led' and sensitive to need? or will it lead to greater provider domination and vested interests, with less coherence in the overall 'offer' available to parents and children in their local area?

Pupil-led funding: the European experience

It is perhaps salutary to consider other countries' experience of this kind of approach. Cor Meijer, in his overview of SEN funding systems across 17 European countries (1999), came to the following conclusions:

"In countries where the finance system is characterised by a direct input funding model.....the most negative voices are heard. These countries point at the different forms of strategic behaviour within the educational field (by parents, teachers and other

actors). These forms of strategic behaviour may result in less integration, more labeling and a raising of costs. Much money is spent on such non-educational matters as litigation, diagnostic procedures and so on.”

A few years ago, the Netherlands introduced a voucher system (the ‘rucksack’ model) similar to that recommended in the Balchin Report². This has now been abandoned as a result of the kinds of issues that Meijer identified, and unsustainable expenditure increases.

Marketisation of SEND: a positive way forward ?

Perhaps the most concerning aspect of the new Government policy is that it does not build on what is known. While it points to faults in the current system, it proposes ‘radical reform’ that in turn has a very limited evidence base. The national SEND pathfinders, that are supposed to be testing a number of the Government’s ideas, are still at a relatively early stage of development. Key policy changes (such as the new approach to SEND funding) have been introduced before they have had a chance to report. Some of the conceptual issues (such as definitions of SEND and levels of accountability in the system) have still not been resolved at national level and this means that the policy parameters for the Pathfinders are relatively vague.

This paper argues that policy problems are likely to continue/be exacerbated as a result of the limited analysis of the balance between the market and regulatory features identified in this presentation (and discussed in previous Policy Options seminars).

Policy to positive practice?

I will finish by presenting you with two excerpts from the DFE school funding website, which exemplify some of the tensions that I have outlined in this session. The funding reforms have generated considerable need for clarification at local authority level. The FAQ section now extends to around 150 pages!

The first excerpt relates to accountability issues and the Local Authority’s regulatory role:

Q1: A mainstream academy is asked by the LA to admit a pupil with HLN. The school says it cannot provide the first £10K of support as this money is already tied up with provision for a broader range of SEN pupils. The parents are unsure what they can reasonably expect as the school and LA are saying different things. How should this be resolved?

A: The local authority should have agreed with all its local schools and Academies arrangements for how much mainstream schools will contribute to high needs pupils, so that this situation does not arise. {25/05/2012}

The second shows even more clearly how policy fails to address the proper balance between market forces and the need to regulate/ensure coherence in local provision:

Q2: A special school decides to set its own top up rates. It is the only special school provision in a small LA. These rates are higher than the current banding levels and will incur significant additional spend. How should this be resolved?

A: The local authority and the school should discuss the situation. It is open to the local authority to start recommending other provision to parents if it does not think that this provision provides value for money. {25/05/2012}

References:

Byers, R. and others (2002): Standards and effectiveness for special educational needs:

² Conservative SEN policy document produced when the Party was in Opposition

interrogating conceptual orthodoxy: SEN Policy Options series 4 no 2: NASEN
Gray, P.J. et al (2006): National Audit of Support, Services and Provision for Children with Low Incidence Needs: DFES Research Report RR729: London, DFE
Meijer, C. (1999): Financing Special Education: a seventeen-country study of the relationship between financing of special needs education and inclusion: European Agency for Development in Special Needs Education

Brahm Norwich:

I want to focus on the particular issue of the concept of special educational needs and the various issues about the scope of the identification of special needs, which is obviously a key part of the Green Paper. I am talking particularly about the relationship between special needs and disability and analyse some current ideas, international ideas as well as what is implicit in the Green Paper about identification. One of the consequences of the Labour period of government was that the concept of special educational needs became a lot more complex. The introduction of the disability discrimination legislation also introduced some confusion, so that we have what some people would call a dual system of special needs and disability. But, in addition to that with the Every Child Matters agenda there was the introduction of the idea of additional needs. At about that time Scotland abandoned the special educational needs concept and talked about additional support needs. And this is the wider group of children who are described as being 'vulnerable' and for which the Common Assessment Framework (CAF) was developed. In the region where I work the CAF is still used to quite a degree. In addition to that, during the Labour period we had the introduction of the wave model through the National Strategies which as you know was tiered in terms of what is called 'universal', what is dedicated or targeted, and what is specialist. But, of course this sat alongside the SEN Code of Practice levels of identification, school action, school action plus and statement levels. This is very significant in terms of trying to link up what the Green Paper is saying in terms of the continuity with the prior system. I believe that Philippa Stobbs will have more to say about this more generally in the next paper.

But, none of the categories or levels were that well connected. Some may contend that there were clear connections between the wave model and the Code levels of identification. But I am not so sure that it was widely understood or put in to practice. But, the core part of my argument is about the complexity of that system. I also do not believe that the Green Paper or next Steps document have really addressed these issues that have been left over from the Labour period. Below is a fairly basic figure what gives an overview of concept that the Green Paper needs to address.

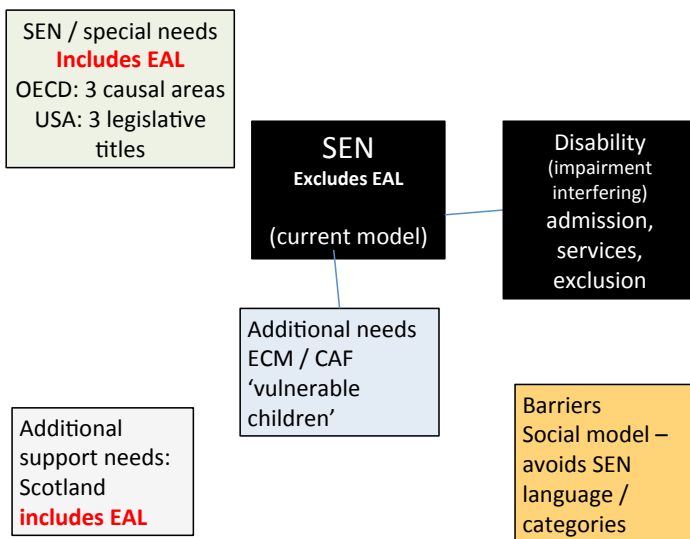


Figure 1: Overview of different concepts relevant to SEN

Represented in black is what I am calling the dual system. The original concept of special needs goes back to the 1981 Education Act, which clearly excludes English as an additional language (EAL) as a SEN. EAL can be seen as a reference point about the scope of the SEN concept. The comparison here is with the one in the bottom left corner of Figure 1, the Scottish additional support need concept. This concept includes EAL and that is a key point of difference. In terms of the Every Child Matters CAF model, which is about 'vulnerable children' SEN / disability is seen one of several areas of additional needs. It is notable that the English additional needs concept is not quite the same as the Scottish additional support needs one, as it does not include EAL. And, then in the top left of the Figure, there are some international reference points. The OECD have a much broader concept of special educational needs as covering three areas, three causal areas which would certainly include EAL. The US system is interesting because they talk in terms of titles; they have three titles that cover this wider concept like the OECD. This puts what we are doing in England in a UK and an international context.

Finally, the bottom right hand corner of the Figure refers to the social model associated with the disability movement and initiatives like the inclusion index. This brings out that the legislative concept of disability (as an impairment that interferes), is inconsistent with the social model which avoids the language of categories and sees disability as coming from the environment and social discrimination and oppression.

So, what does this say about the current position about the SEN concept? My key point is that the Green Paper, even in its update, ignores the confusion created by the Labour initiatives. It has accepted the recent Ofsted view about the over-identification of special educational needs. This means that those at school action level will come somehow (we have yet to discover how) to have their needs addressed through what is called the 'normal day to day classroom practice'. Though I do not think that the Green Paper is very explicit over this matter, it seems to me that the focus on special educational needs and disability will be about a smaller group of children identified in terms of medical / health conditions. This approach to the SEN concept within the Green Paper is what is sometimes called a 'within child model'. In other words it is the within child causal factors that are the predominant ways of understanding the special educational needs. Of course this ignores what people would call an interactive model, which actually goes back to the work done by Klaus Wedell for the 1981 Act. It also ignores a major development, the World Health Organisation International Classification of Functioning (ICF) system. This is

a scheme that has developed quite a lot in Europe and the United States, but somehow has been bypassed in the UK. The key element of the ICF model is its integration of what is called the social and the medical models. It does so by recognising a gap between medical diagnosis and functional aspects from which educational requirements arise. The figure below represents the ICF and shows the key interaction between impairment, activity and participation at the core of the scheme. This core interaction is influenced by health conditions (at the top of the ICF model) and environmental and personal factors at the bottom of the figure. This part of the figure shown represents the WHO version of the ICF and has its origins in rehabilitative, therapeutic and multi-agency thinking. However, the full figure here represents an educational adaptation of the classic ICF scheme.

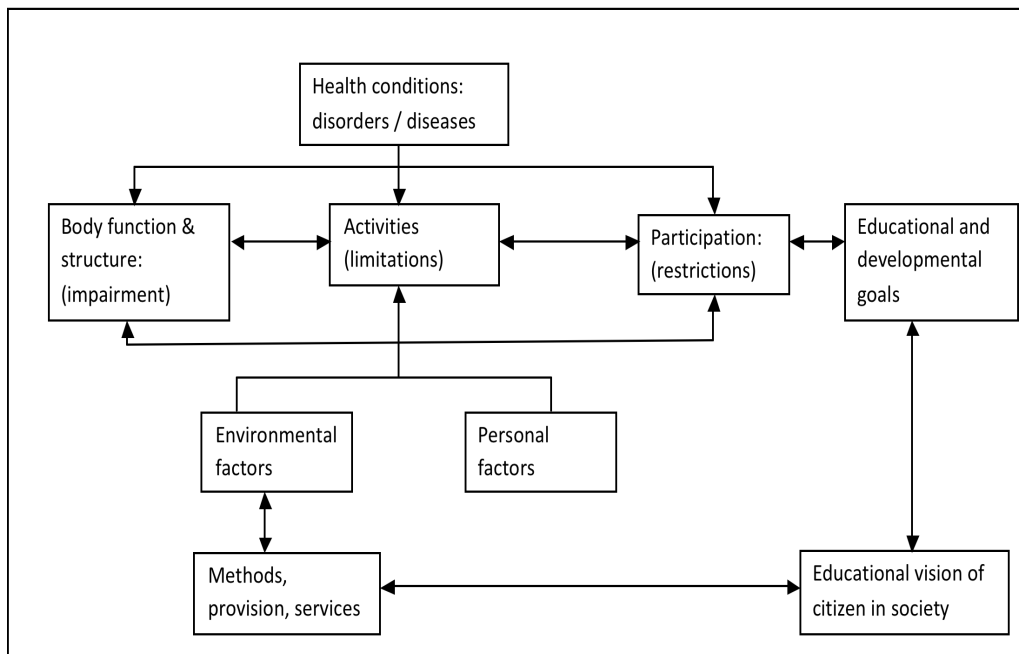


Figure 3.3: ICF expanded for educational use.

This version derives from Judith Hollenweger (2011) work in the Zurich canton in Switzerland, which is used in eligibility assessment and decision making for pupils to receive additional researches in that canton. One of the key additions to the classic ICF model is the introduction of ideas about educational and developmental goals to the participation aspect of the scheme (right hand side of the figure). These goals derive from an educational vision of citizenship in a society (bottom right of the figure). The educational vision is also related to the current educational services and methods used in schools and elsewhere that are aspects of the environmental factors that influence the interaction of activity and participation with impairment. This is about specifying how school and class level factors concerned with the cultural and curriculum aspects of provision are relevant to functional aspects of disability in education.

This has some resemblance to aspects of the earlier 1981 models of assessment as well as the more recent CAF framework, but it is much clearer about the elements that are interaction and provides a basis also for multi-agency inter-professional service delivery. It is an up and running system in Zurich canton and by using computerised data bases enables analysis of how eligibility decision making can be related to different functioning profiles. I consider this scheme to be highly relevant to the issues we face in relation to the current review of SEN. The Green Paper raises questions about the future of what is called high incidence SEN and there is recognition that the behaviour social and emotional difficulties category (BESD) is not that helpful. But, what is actually going to happen about

these questions is unclear. What will happen to the other counterpart category, moderate learning difficulties (MLD) is also unclear and also gets no reference at all. This seems to me a major oversight, despite plans to reduce the identification of pupils at school action level. The MLD category is most likely to be affected. MLD is a difficult and contentious category, yet it is very highly identified, especially at school action plus level in the census data. There are a lot of issues surrounding it, not least about whether you can differentiate it from specific learning difficulties or those with lower attainment. Also, there are definitional issues with assessment operational implications. These are about whether you think that conceptual or intellectual difficulties are part of the definition or not. The annual census definition of MLD is interpreted in schools in confusing ways. Recent research shows that teachers and SENCOs are confused about the nature of MLD and that category is hard to differentiate from specific learning difficulties and lower attainment (Norwich, Ylonen and Gwernan-Jones, 2012).

So, the final question that I would pose is if we are going to reduce the number of children identified at school action level, what are the options? Here are two options, though there could be more; one is that we retain the MLD concept but re-name it as something like 'general learning difficulties' and give it a much tighter definition. The other option is just to abandon it completely, and regroup the minority of pupils with more severe difficulties with those currently said to have severe learning difficulties. The majority with lesser difficulties, those that the Green Paper is suggesting do not have SEN, can go into the group of those who are described as struggling with learning and be provided through 'normal day to day classroom practice'. Some of this, I assume, might be funded under some social disadvantage title like the pupil premium. In conclusion, I have addressed some of the issues about the scope and definition issues raised by the Green Paper and suggested that this requires a more basic approach that addresses the architecture of the system. Unfortunately the Green Paper has not done so.

References:

- Hollenweger, J. (2011) Development of an ICF-based eligibility procedure for education in Switzerland. *BMC Public Health*, 11, Supplement 5, 1-8
- Norwich, B., Ylonen, A. and Gwernan-Jones, R. (2012) Moderate Learning Difficulties: searching for clarity and understanding, in *Research Papers in Education*
DOI:10.1080/02671522.2012.729153.

Chapter 3: Overview of previous national SEND achievements and their fit with current SEND policy directions.

Philippa Stobbs - Council for Disabled Children

Introduction

I have changed what I wanted to say today in the light of an evidence session with the Education Select Committee yesterday. It gave me pause for thought about what constitutes evidence and what is the basis for changes in public policy. What does the evidence tell us we should be doing? Where does the evidence say we can proceed with confidence? Where do we lack the evidence? Where do we have to speculate that a particular policy development might better meet an identified problem? What are the problems we are trying to solve by the changes we are proposing to make? Are we confident that we are identifying the best solutions to address the problems that sit behind and inform the proposals for change.

Evidence about SEND practices

What I want to do is refer briefly to some of the evidence that has been gathered, particularly under the previous administration. The previous administration gathered much evidence but, in the end, did not change the statutory framework. That decision might be in some part due to the recommendations of the Lamb Inquiry.

There is some value in distinguishing between the opportunities that are currently open to us that we need to seize and those that we simply need to set to one side. In this regard I was really interested that many SEN Coordinators at the recent north of England conference were bewildered by what was being proposed in the SEN Green Paper. This set me thinking about what it is that we are changing, what difference it is going to make and what evidence we are using.

I think it was Michael Gove who told us that the collective noun for anecdotes is not evidence. I don't think anecdotes amount to evidence but I am interested in how we use anecdote to understand some of the evidence. I would argue that some of the anecdotal evidence that we collected during the Lamb Inquiry was quite crucial to our understanding of the evidence and in informing some of the recommendations that the Inquiry made. The design of the Achievement for All pilot, for example, was based on parents' insights, drawn from small meetings where parents highlighted what, for them, were key problems with the current system. We considered whether there was something we could design to address the shortcomings they had identified. The answer was overwhelmingly 'yes'. The Achievement for All pilot was highly successful, but it was quite counter-cultural in the DCSF to run with the three strands that we had identified: careful tracking of children's progress, a much closer working relationship with parents including a 'listening conversation', and taking into account outcomes that go wider than attainment. There was a strong argument from the school improvement side of DCSF that parental participation did not need to be a discrete ingredient, that if we focused on progress and outcomes, as the earlier 'Making Good Progress' pilot had (PricewaterhouseCoopers LLP, 2010), everything else would fall into place. In practice, the evaluation of the Achievement for All pilot showed that the 'listening conversation'³ was key in bringing together the other elements (Humphrey and Squires, 2011). So, I started to think about whether or not it was

³ This became known as the 'Structured Conversation' see, <http://dera.ioe.ac.uk/2418/>

wise and useful to draw on anecdote to inform policy. I believe that we can use it to inform our understanding, but then we need to be confident that we have adequately tested our understanding and gathered robust evidence. So, the design of Achievement for All drew on evidence but also on anecdote; the evaluation then, of course, validated what came out of that.

We have at our disposal a relatively rich data system, but the analysis of the data that we have is wanting. A description of individual data sets does not provide us with an analysis, it does not on its own provide us with the logical linkages that we need. I think that there are several challenges in using our databases to inform changes in policy. We can read the data in a number of different ways, it can tell a different story depending on how it is read, and the different stories may point to different possible solutions. I think we need not only evidence of what the problem is, but also a logical connection to the proposed solution, a logical connection that can then be tested.

I am thinking of a medical analogy here; in medical research you can identify a correlation between two particular conditions or between a particular condition and a particular treatment, but you also need to be able to point to a logical, physiological link to be able to argue any linkage between cause and effect. We should perhaps encourage a 'Broad Street pump' approach, a public health approach. In the early 1850s, John Snow, a physician, gathered data that indicated a high incidence of cholera in the Broad Street area of Soho and, counter to theories about the spread of the disease at the time, he became persuaded that the disease could be water-borne, even though, in the mid 19th century he could not identify the source of the infection in water samples. He argued on the basis of the statistical link and the possibility of the explanatory water-borne link and the authorities were sufficiently persuaded that they removed the handle from the Broad Street pump. It was key to solving the problem. It seems to me that we need both the explanatory connection and the statistical connection when we analyse public policy challenges and put forward solutions.

Achievements under the previous administration

What were some of the achievements of the previous administration in this area? A number of different reviews brought together a range of different sorts of evidence. If you just take the Lamb Inquiry, there were surveys, there were practical local projects that were evaluated and there was research commissioned to inform and support the Inquiry. In connection with each of the reviews, there were different forms of evidence, including specifically commissioned research. But what was the problem that politicians were trying to solve? I think this is a key question.

It is interesting that a few years before the Lamb Inquiry was set up, 'Removing Barriers to Achievement' policy document was published. In terms of heralding changes to public policy, 'Removing Barriers' was relatively low profile; it placed a significant emphasis on increasing teacher skills, on increased responsiveness to individual needs and on building the capacity of mainstream schools. There was a lot of skill development that took some time to implement. I think the administration might reasonably have expected that, by improving skills across the board, the number of children with a statement would have fallen, though the suggestion of this in the strategy drew considerable criticism.

Interestingly some people felt that these changes were not enough, that something more fundamental needed changing.

There was a call for a national review by the Select Committee in 2006. There was also a lot of evidence that showed that particular changes were needed to make things work, but many of these did not call for the re-design of the system. It challenged me to think a little

bit more about the kind of evidence base that we have of what works and what is the relevance of the big systems. This relates back to the SENCOs, mentioned above, who were mystified and concerned about how the changes heralded in the Green Paper were going to affect what they do in school on Monday morning. It did not seem to have any messages for or any connection with them. Yet many of the challenges for this group of children lie firmly in schools and in the classroom every day. This takes us into the territory of how programmes are implemented and evaluated.

There has been a significant investment in the evaluation of particular programmes and some of the evidence from these evaluations has been used to inform the next stage of the development of provision. Some evaluation is about keeping a monitoring eye on a development to which there is a political commitment, for example, the evaluation of the Academies programme. This was tightly monitored until the fifth evaluation. I will come back to that in a bit, because there was data about exclusions which probably warranted a more detailed examination at an academy-by-academy level to tell us whether the 'new' academies are working in a different way from the 'old' academies. We have information from a number of different sources about the implementation of programmes, which I think is quite interesting, if you think about the current range of developments. How are these evaluations going to be used?

The evaluation of the range of SEN teacher training initiatives carried out by Warwick University was very clear that the range of initiatives would not have happened if there had been no National Strategies. There is no National Strategy now, so how are any of the current changes going to be implemented and evaluated? I think that is quite a challenge. But, I think the other thing is that we need to get down to quite detailed school based evaluation of provision that does change outcomes for children. In this regard I want to make the comparison between the two evaluations of the SEAL (Social Emotional Aspects of Learning). It was interesting that, in primary schools, it was quite well implemented and it did have an impact while in secondary it did not. The difference in implementation, as I read it, is that secondary schools undertook implementation in a different way. Perhaps partly because of timing, it was a much more tokenistic implementation than in primary, with secondary schools more likely to be completing requirements as a tick box exercise; it was not looking at the implementation of the SEAL philosophy. Whereas the evaluation of the implementation of SEAL in primary schools and the evaluation of the Achievement for All pilot, across primary and secondary, does show that there was a real culture change in schools.

There are also insights into the specifics of the deployment of resources within schools that make the difference to children's progress. We have seen a massive increase in the deployment of support assistants in schools, yet it took a major five year programme, the like of which is unlikely to be available again in the foreseeable future, looking at the weft and the warp of classroom interactions, to show that the unplanned use of support assistants undermined children's progress and their interactions with their teacher, the curriculum and their peers (Blatchford et al, 2009). Should we be surprised that, if we hand over the education of children with the greatest difficulties in learning to those least qualified to teach them, that they do not make good progress, in fact that they do not make progress at all?

At the heart of this issue are classroom interactions. I want to refer briefly to some of the essential teacher skills that enable children to learn and make progress. The difference a 'good' teacher can make in terms of accelerating children's progress was highlighted in the White Paper, 'The Importance of Teaching' (DfE, 2010a) and the supporting 'Case for

Change' (DfE, 2010b) document. Looking at a more detailed classroom level, a meta-analysis of the research by Sheehy, Rix and others (Sheehy et al, 2009), based primarily on American research (though there is no reason to think it would be significantly different if it were based on UK research) provides some important insights into the fundamentals of good classroom practice. These reside primarily in the teacher who understands intimately the nature of the curriculum and is regularly testing, reviewing and revising theories about how children are learning. Further, the best teachers keep their practice and their theories about children's learning constantly under review with a community of others. Similarly, I think Brahm Norwich's work on the lesson study approach (Ylonen and Norwich, 2012) and Barry Carpenter's work on attention and learning in children with complex needs (SSAT, 2011) emphasise the importance of detailed observation of classroom practice, to help us identify what best enables children's progress.

For children who face the biggest challenges in their learning, how do we best enable them to learn and make progress? When we consider this, surely we want a system that best enables more children to make good progress, to achieve better outcomes and to improve their life chances beyond the education system. This has more to do with the quality of teaching and how schools enable progress for the group of children we are focused on. It is back to the 'Removing Barriers to Achievement' question which was fundamentally, 'How do we increase the capacity of schools to respond positively to children who are not learning as readily as their peers?'

We also need to consider what parents are looking for. Parents told the Lamb Inquiry clearly, and it comes also from other reviews, that they are looking for 'someone who understands my child's needs'. This reflects the necessary level of expertise to make the appropriate response. This is not scientifically defined, but parents know when it is missing and know when they have found it. It is clear, from Olga Miller's work on children with a visual impairment who were placed in residential schools, that a key element driving parents' motivation in placing them there was to access the relevant staff skills (Miller et al, 2008). Teacher skills were a constant theme through the Bercow (Bercow, 2008), Rose (Rose, 2009) and Lamb (DCSF, 2009) reviews. Teacher skills are key to parents' confidence and it does seem that parents will move through the system to find that. So, if teacher skills sit on the other side of a statement or a plan, that is where they will go; if teacher skills sit in the next door school, that is where they will go.

Current challenges and questions

So, what are the political questions that we are asking? How significant are they to the detailed consideration of children's progress? And are they relevant questions to be asking if we want a system that does better for this group of children? Is there a bias towards inclusion? On this last, the story that we hear repeatedly from parents is of a struggle to secure their child's place in a mainstream school and of how they may finally give up because of the search for that expertise, 'the person who understands my child's needs'. The NAS survey last year, 'Make school make sense' (Batten et al, 2006), was quite clear that parents did not want a mainstream school or a special school per se, they wanted and liked the place where they found the necessary expertise to meet their child's needs. So, their assessment of their child's school was based on the expertise that was located there.

Are we identifying too many children with SEN? Many SENCOs would say that schools are identifying too many children with special educational needs and that this means that the SENCO workload is not targeted enough. If we take the definition of special educational provision as our starting point, there is a logical problem with high levels of children being identified as having SEN. If you are providing something that is, in the words of the

legislation, 'additional to or different from' what is provided for all children, and if you have got 80% of your children on the SEN register, the questions have to be about the quality of the main offer that is only providing adequately for the 20% of children who do not require anything 'additional to or different from'. So, there is a logical issue about how many children we identify in terms of whether you can target an intensified, different response to this larger number of children. But, let us not lose the very clear message in the Ofsted report (Ofsted, 2010) that found children making good progress in schools where there were both high rates and low rates of identification of children with SEN. The key issue for Ofsted was not the number, it was whether there was an adequate focus on children's progress and outcomes. In this context, the numbers issue is a bit of a red herring. I think a well-organised school does review what it is offering and the extent to which children are identified as needing something additional or different, but if the focus is genuinely on outcomes, it does not appear that the SEN label matters. Where the label of course does matter is if it then leads to lowered expectations and that is clearly a risk.

Should we separate assessment from provision? What is the evidence you would need there? The search is for some independence in assessment, but is that illusory? Does assessment say what the purchaser, local authority, parent or whosoever, wants it to say? The view that we took in the Lamb Inquiry was that ultimately independence was rooted in professional responsibility. We heard from Educational Psychologists who said 'I'd be struck off if I compromised what I was saying' yet, in other cases, local authorities did seem to fetter advice. There is a key role for professional responsibility and being held to account by a professional body. I am not sure that an 'independent', highly costly, national agency would do a good job in assessing the detailed classroom arrangements for a child. How much easier to put downward pressure on such an agency at a time of restraint in public spending? If we look at developments in relation to disability benefits, can we discern how independent a central agency might be? In addition, how well equipped is such an agency to consider the detail of local provision? How well-equipped to keep under review on a regular basis the response of children learning in classrooms or being supported in their family life? How well-equipped to take into account how the provision that we make changes our assessment, or how our investment in assessment constrains provision?

The outcome of a recent survey carried out by the Every Disabled Child Matters campaign was hugely encouraging in this last respect. It followed up on the implementation of the 'short breaks duty', the duty to provide a range of short breaks services for disabled children, young people and their families. A number of local authorities realised that they were using so much of their resources in assessing, that there was little resource left to make provision. At the same time a number realised that the smallest amount of short break provision would satisfy the needs of the majority of families; most families only needed a small amount of provision in order to meet their needs. In these authorities, by making a small amount of provision available on demand, or against relatively undemanding criteria, the majority of need was satisfied, and to the extent that need went beyond this limited offer, the first step in a more detailed assessment was already completed, the view of the family that they needed more. There is a sense in which we need to be thinking carefully about what resources we tie up in an assessment industry and whether we localise our assessment and consider whether provision is adequate. This involves getting back into the classroom, looking at how children respond to what we do, and if we integrate it back in that way, we have a system that says 'we provide this, if this does not work, we provide something else'. We are more pragmatic in our response if you like.

So what are the political questions and what are the political imperatives? The deeply unsatisfactory experiences of angry parents have driven the political agenda. This is understandable, individual solutions have to be found to sort out the devastating circumstances in which children and families find themselves. But does this prevent the same, or similar, experiences for others? Do the experiences of individual children and families make a good basis for re-designing systems? My overwhelming sense is that a key element in re-design is to re-focus on early intervention, going back to the practices of individual schools, GP practices, local authority disabled children teams, back to the earliest stages. Somehow in these earliest stages we have to create a joint local interest in making sure that problems do not get worse and do not get referred up the tree. In this context, the local offer is key, but it needs to be a multi-agency local offer. The local offer, combined with the requirement on local authorities and clinical commissioning groups to plan and commission jointly seem to offer a way of moving forward on this agenda. If it they have teeth, these arrangements could be a force for local improvement.

Values and priority

International comparisons tell us that we have a 'long tail of under-achievement'. If this is the case, should this group of children not be our top priority? Could we not solve our international comparisons problem by securing improved outcomes for this group of children? Much of the anecdotal evidence suggests that if you get education right for this group of children, you would get it right for others. You are not going to undermine the progress of other children by that focus. So, I worry deeply that at the same time as we are saying, as evidenced in the White Paper, that good teachers can make a significant difference over poorer teachers, we are, at the same time delegating the teaching of children with SEN to unqualified support assistants. This does not reflect the importance we should be attaching to the progress of and outcomes for this group of children.

Way back in 1986, the Education Select Committee investigation into the way that the SEN system was working concluded that it was the way procedures were operated, not their 'scope and purpose' which were the problem. Overwhelmingly it feels to me that that is still the issue today. The system sits in a culture that does not value outcomes for this group of children in the way it does for those who will get in to our top universities. If that is seen as the only positive outcome from an education, we are not placing sufficient value on the difference that one GCSE can make, in terms of life chances, for a child who has done well and progressed to that point. So how do we turn that around? How do we get more of a focus on good progress? How do we value that one GCSE where it is a good outcome for that young person? This one GCSE may make the difference between that young person securing, and staying in, employment. It seems to me that the culture is going in the opposite direction. As an example, the phonics checklist has a high threshold and, despite efforts on the part of a number of people to get a tiered test, it only recognises the achievement of those who have reached the 'expected' level. A tiered test would give teachers evidence of children just taking their first steps in phonics. It is not a problem that we are setting higher challenges for children who, given their age and starting point, should achieve them; it is a problem if we do not, at the same time, differentiate outcomes so that we can recognise and value good outcomes for children who at the same age started from a very different place.

Concluding comments

Finally, I need to acknowledge that we have two systems operating in the UK: the SEN system and the Equality Act that protects disabled children from discrimination. Do we need both? Could we move, in the future, to a system that was based entirely on the Equality Act? Personally, and longer-term, I would like to see the SEN machinery

completely dismantled and I think we should move to relying on the protection of the Equality Act. Whilst I agree with you, Brahm Norwich, when you said earlier that the definition of disability in the Equality Act is within-person, the thinking in the Act is about making 'reasonable adjustments' to different aspects of the environment. Reasonable adjustments' require us to make changes to what we do, so that disabled pupils are not at a disadvantage. Given this duty, could we move away from an SEN system entirely and towards protection from discrimination on the grounds of disability? Well, why not, now that we have included the provision of auxiliary aids and services duty as part of schools' duties to make reasonable adjustments. This provision has previously been thought of as special educational provision. 'Why could we not *now*?' is a very different question. We had just over 3000 appeals to the SEN and Disability Tribunal on SEN decisions. We have a tiny handful, and a diminishing handful, of claims of discrimination going to the Tribunal, perhaps because parents are understandably unwilling to make a claim against the school where their child is placed. They fear it will affect the way the school responds to their child. Before making any such move, we would also need to be confident that the Equality Act would be upheld vigorously; we would want to see it being checked and evaluated. The experience of the last year to eighteen months is that duties, certainly the Public Sector Equality Duty, have been reduced, minimised, and, sadly, not monitored in a way that could give us confidence that this framework could stand on its own and without the SEN framework.

My longer term vision would be that we should simply dismantle the SEN framework and rely on the disability framework and a rights based approach. More fundamentally, other changes in the system: the funding changes, the increased independence of schools, the movement of the big tectonic plates of the education system, do not adequately take account of this group of children. It is these changes that are likely to have more impact on how successful we are in providing a good education for this group of children. When we do focus on children with SEN, I think we need to think carefully about whether we are asking the right questions and whether we are looking in the right place for solutions.

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**Chapter 4:
Overview of the Labour Party SEN review.
Sharon Hodgson**

Introduction

I'm very pleased to be able to come and speak to you all today, although being amongst experts means that I am more looking forward to the discussion afterwards and hearing your ideas than I am to giving this talk.

As most of you will probably know, Peter Gray came to present to the fourth session of the Labour Party Special Educational Needs Policy Review, which focussed on how to make the current system, and indeed the one that is rapidly developing at the moment, more accountable to children and young people with SEN and disabilities and their parents. He gave a very insightful contribution on accountability within the education system, so I was more than happy to return the favour by joining the panel at your seminar today. It is also a real pleasure to share a platform with Philippa Stobbs once again. I think the last one we shared was at a debate hosted by Channel 4 just over a year ago. Philippa was a great help to me when I was taking my SEN Information Private Members Bill through Parliament, as she has been in my current role.

Perspectives on government reforms

As I have been saying since the call for evidence preceding the Green Paper went out in September 2010 – before Ed Miliband had even asked me to take on the role of Labour's spokesperson on these issues – we have a real opportunity here to make the lives of children living with the whole spectrum of special educational needs and disabilities, as well as their families, better.

I know from both personal experience and from the responses that I have had to the consultation we issued back in February, the system we have works well in some local areas, but frighteningly badly in others. I have therefore been clear that the case for change was already well-rehearsed, and at every point up to now, and at every point along the passage of this Bill and beyond, I and the Labour Party have supported and will support the Government where we think that their ideas and how they intend to implement them will have a positive impact on the outcomes of young people.

This is particularly true of the ambition to streamline the assessment process and for the co-production of a single Education, Health and Care Plan for those children and young people up to the age of 25 who are deemed to require one, which will include parents as well as multi-disciplinary teams in establishing what support that child needs. These are the really crucial issues for parents, and so are the ones you will probably hear the most about from politicians over the coming year or so.

How they can be achieved, however, is another thing – I know in particular we have been trying to get health to play nicely and share their budgets with others for years, and I am certainly not confident that in this new world of health and wellbeing boards and clinical commissioning groups that this is necessarily going to change. I therefore look forward to seeing the lessons learned from the pathfinders set up last year – hopefully before we are asked to vote on the legislation.

We have also offered qualified support for personal budgets. As a parent of a son who had a statement for severe dyslexia, I would have welcomed the opportunity to go out and find specialist support for him and have that funded, which I actually did out of my own pocket

to help him through his GCSEs, and I think there are many other parents who will like that idea too.

What we need to make sure again, however, is that the Children and Families Bill does not seek to hammer the idea home before it has been properly tested. The primary concerns have to be that the quality of provision is high, and in these times of huge cuts to local authorities, that it represents value for money for the taxpayer compared to the present system.

I know a lot of the responses to the Green Paper consultation were also concerned that provision for those children whose parents do not want to manage their own budgets should not be adversely affected, and that there is sufficient independent and good quality advice out there for all parents – re-assurances I sought and was given by the Minister when we discussed the pilot schemes. Building on that, I also think that during the passage of the Bill we need to talk seriously about who is springing up here and there to try and cash in on this reform, and whether the services they are offering have any actual value. The last thing we want to create is a new breed of ambulance chaser.

Again, the Department are piloting this in a number of local areas, but unless there have been some very recent developments, I do not think any of those pilots are up and running yet, and probably will not be running properly until the Autumn. I actually had a parent email me the other week saying that her local SEN team had told her they had no idea what they were going to be doing. This therefore means that when the time comes, we could be asked to vote on rolling something out for which there is no evidence at all that it will actually deliver what we hope it will. Given that this is a key plank of the Government's reforms, and the concerns that surround it, I hope that they will put in the effort required to ensure that Parliament has the fullest picture possible before it is asked to approve it.

Key themes from Labour's policy review

So those are my perspectives on the Government's main reforms, but as you know, we in the Labour Party set up our own official review of SEN policy at the beginning of the year. This was partly through frustration at the length of time it took the Government to analyse and publish the results of their consultation on the Green Paper, but mainly through our own desire to learn the lessons of the last 13 years and come up with new ideas for the future. I have been chairing that review, aided by party colleagues in Parliament and local government, but also by a young person with SEN who has gone through the current system, as well as the Head of a well-respected special school in the North East, to give us a broader perspective of the challenges which need to be overcome on both sides. We met last week to discuss the first draft of the recommendations and principles that will come out of that process.

We have not finalised that process quite yet, though, so I would not want to go into too much detail here about what it will contain, but suffice to say there was a good deal of consensus around certain principles at the four evidence sessions that we had, as well as the hundreds of written responses we received. One of the biggest themes was the education workforce and the skills they have in this regard, and this is an area I think that big strides can be made. The simple fact is that every educator, whether they are early years professionals, teachers, or FE lecturers, will be educating children and young people with special educational needs. I think it therefore defies logic that teachers are not required to know about high incidence needs and how best to adapt their teaching to cater for them. That is as true of initial training as it is of continuous professional development. I am not saying that teachers should be experts, but they should have sufficient knowledge

to know when someone is struggling and why that might be, and when to discuss the child's needs with those who do have better knowledge – whether that's SENCOs or EdPsychs, or specialist dyslexia teachers and the like.

Up-skilling teachers means that you will be able to keep more children in mainstream classrooms, and focus more resources on helping those with more complex needs. This leads me on to another of the strong themes from our policy review, which was around inclusion. I think it is fair to say that the majority of people who contributed, as well as who I have met and talked to outside of that process, expressed deep concerns with a line that was in the Green Paper and even the Coalition Agreement before it, which spoke about "removing the bias towards inclusion". I know that this line actually came from the Prime Minister himself, but when challenged the Government has not been able to provide any evidence that there is such a bias, and it is not something that most people recognise. I think where there clearly is a bias it is from local authorities choosing what they deem to be the most cost-effective school placement for a particular child's needs, which most of the time will be mainstream schools. I think everyone would agree that cost-effectiveness has to be a priority for local authorities as commissioners of services, but the problem arises when by 'most cost-effective' they simply mean 'cheapest in the short term', and not what is best for the young person in the long term.

We've got to encourage commissioners to look beyond their annual budget and instead to how investing a little more now can save them much more over the course of that child's life, through reduced dependency on social care and better preparing young people for independent living and participation in the labour market. I was pleased, therefore, to see that the phrase did not appear in the Next Steps document, and I will be watching to see if and where it manifests itself in the legislation when it is published.

Accountability will also be a key theme for us in considering the wider raft of changes this Bill will make – and this is the topic on which Peter Gray gave evidence. In this respect, the provisions of the Bill need to be looked at in the light of the drastically different education system which Michael Gove has created through the Academies Act and the Education Act. His vision seems to be an education landscape whereby the majority of schools are answerable directly to him, but we do not think that this is anywhere near good enough. Local co-ordination of SEND provision is a great example of where you need a local point of accountability for parents to be able to go to when problems occur. However, if parents believe that an academy or free school has acted unfairly in excluding their child, they have to take it to the Secretary of State, or rather his officials. The local authority, which has a democratic mandate, is powerless to do anything, and if the recent ruling over Mossbourne Academy's refusal to be named on a child's statement is anything to go by, so is the tribunal service. This cannot be right – all parents need to know what they can expect in terms of who is ultimately accountable for the provision of their child's needs, and that is the case we will be making during the passage of the Bill.

As Peter said in his evidence to the fourth session of our review, the variability of attitudes to SEN and disability amongst schools remains a major source of frustration for parents. This is being compounded by the government's focus on the EBacc as a gold standard of qualifications, and by revisions they have made to the Ofsted framework. These changes are increasing the perverse incentive for schools to be seen as being 'bad at SEN', because some head teachers are concerned that 'being good at SEND' will mean that their intake will be skewed away from 'high achieving pupils', with the consequence of a reduction in their overall academic results and Ofsted scores. One of the areas we are looking at is therefore how to ensure that we recognise SEN as something that all schools

must strive to be good at. For example, we are considering whether it would be appropriate to say that schools and local authority children's services departments as well for that matter, must be found to be 'outstanding at SEN' if they are to achieve an 'Outstanding' score overall. I think this would put SEN and inclusive practices at the heart of policies, and I would welcome feedback on that.

Further to that, lots of parents – and particularly those who have had a bad experience at the hands of their local authority – see an inherent unfairness in balance of power between them and councils. This particularly comes to the fore when we talk about the tribunal process. I do support measures to beef up mediation services, which should be used now anyway, but it certainly appears that there are councils which have the corporate culture which says that: "if we drag our feet, the majority of people won't have the knowledge or the energy to fight us, so we'll save money". This inevitably means that parents will have to go down the legal route – but information on which local authorities are spending how much money on this is not available. I therefore think that as a first instance we need to look at increasing transparency, so that people can hold their elected representatives to account, and if that does not change cultures, then stronger sanctions against bad practice should be considered.

Finally, I want to talk about another key area I am keen to talk about around the Bill, which is support for the wider family, for whom the present system can present huge challenges which are insurmountable to many. I had a meeting just last week with Dr Kim Bevan, who since 2003 has been delivering a programme called Early Support, which has been very effectively guiding families of disabled children through the challenges they face. We also have parent partnerships across the country, which look to support families through the process of assessment and statementing. Where they work well, they work very well – at the evidence session that Peter presented to, we heard a great example of one such partnership in Rotherham. There they have been successfully bringing parents, carers and the local authority much closer together in designing and commissioning local services, reducing conflict and therefore the costly tribunal process I just mentioned, which happens where there is a breakdown of relationships. But, on the other hand, we also heard from a parent who had never even been made aware that their local parent partnership existed, and who had therefore been left to fight her corner all by herself. I think that there is a great deal to be gained by making sure that every council is as good as Rotherham when it comes to involving parents at every stage of the process. Whether or not this needs to be on the face of the Bill, which it probably doesn't, it certainly needs to be considered alongside it.

On a more formal basis, I hope that the fact Education Health and Care Plans will be co-produced meaning that they take full account of wider family needs, including what a child's parents are capable of doing themselves – both in terms of their responsibilities for other siblings and in terms of whether they themselves have disabilities or special educational needs. Supporting a family to be able to understand, cope with, and cater for their child is an extremely cost-effective thing to do. But over-estimating their capabilities and heaping too much of a burden on them will only add to the stress levels in the household, which could aggravate certain special educational needs, and lead to wider family problems and possibly breakdown. Allowing that to happen is likely to impact how well that child can develop, cost us all a lot more money in the long run, and in the worst case scenario lead to the tragedy of care proceedings or worse. It is therefore crucial that EHCPs should reflect wider family issues and abilities, and I will be seeking assurances that that will be the case.

Conclusion

So to wrap up, I certainly see the whole process that the Government are going through as an opportunity to work in a constructive way with my opposite number, as well as with families, local government and experts across the sector to bring about real change which will improve the lives and outcomes of SEND children for years to come. We will not agree on everything, but at least we all agree on the principles, and that has not been a particularly common scenario over the last couple of years between myself and the Minister. I am looking forward to saying more about the specific ideas to come out of our policy review as well – much of which will be in response to or suggesting amendments to the Children and Families Bill, but some of which will probably be held back for our manifesto. But, even though we have had the hearings and have drawn up recommendations that we are currently discussing within the party, the policy review is an on-going process, and I will always be open to new and good ideas, as well as feedback on what I am saying. So please do not hold back during this discussion – I have got people here taking notes - and if you do have anything beyond today that you want to raise with me, please just drop me an email.

Chapter 5: Summary of Group discussions

The following were some suggested questions for small group discussion:

1. How does the GP and subsequent documents will help us to be clearer about what **constitutes special educational needs**? What other approaches could be adopted and developed?
2. To what extent has GP struck an appropriate balance between the relative benefits of **market-driven and regulated systems**, and the need for a balance between choice and other important goals (eg equity, entitlement and quality). Where does the Government's approach take us on this and what other balances might work better?
3. How far do you think the proposed reforms are likely to lead to improvements in the **quality of education and experience** for children with SEND? What other options are available?
4. How far are the GP reforms likely to deliver in practice greater 'choice and control' and improvements in **parental experience and satisfaction**? Are there alternative approaches?

The following accounts summarise the resulting small group discussions:

Group 1:

This group started by picking up on Philippa Stobb's question about 'what are the problems we're trying to solve?' and we may be trying to solve the wrong ones. For instance group thought that the time scales of statutory assessment was less of a real issue for most parents than finding a welcoming school with staff that they felt confident about, one that had a good record of meeting the needs of children. The group felt that the other big issue was funding, the changes to funding and the time, the very short time-scales; these were likely to be a key driver. Without being too political, the time-scales for the next election are likely to be important, as Governments need the results to show things for 2015.

In terms of the other issues, admissions are a big issue, particularly with regard to academies and the statutory framework for admissions and particularly transfer to secondary school. The group reporter said how he managed SEN in quite a few authorities and used to keep a file of the worst letters from head teachers. This was called the 'No room at the inn'; the silliest reasons not to admit a child. Sometimes he would go back to those heads and they would say: 'He was fine, he was always fine.' If he had showed that parent the head's letter, they would have been mortified. The school should have been proud that that they had done a fantastic job with that kid. Exclusions came up in terms of the accountability for what happens to students, not just external exclusions, but internal exclusions, which happen more frequently; many schools operate internal systems.

Another key issue was the relationship of schools to the local authority in the evolving framework of academies, free schools, and how accountability gets planned in to that and will carry on as the position changes. The process of schools becoming academies was going ahead without any kind of accountability mechanism being in place. It is a question

of catching up with things that were already going on; that was so important. We also discussed issues of transparency in the local offer, whether having greater publicity and use of local guidelines would make things easier. It was felt that guidelines needed to be manageable, as many authorities work on criteria for assessment that are maybe fifty or sixty pages long. The reported also mentioned that he was in an authority yesterday where their criteria were long and not easy for parents to disentangle or indeed even the staff in the local authority.

The group also discussed developing the capacity of the SEN governor, perhaps by having key questions they should ask regularly and report on. They discussed whether there needed to be a local Code of Practice. However, this was seen as being in a tension with a national funding framework. The group came back again and again to funding as the key issue. In terms of making things better, the main theme was that the Achievement for All (AfA) roll-out could become a lost opportunity. The evidence about AfA seems to be so positive, both in terms of things like strategic management and ownership of SEN by the head. The experience of the structured conversation is that it can transform the way parents feel about the way they become engaged and the way staff learn actually about how children can behave differently at home and school.

Group 2:

This group had a wide-ranging discussion. It started with talking about parental choice and personal budgets. Participants thought that parents really want good provision and that notion of parental choice is an ideological one. Some thought that parental choice was no the road to go down. The group also looked at the increase in personalisation and choice and some acknowledged that that had worked well, when there was a range of good quality options. But, there was also talk about the dangers of schools avoiding responsibility. For example, 'Your support assistant isn't in today so you can't come in to school.' The allied point is that if parents are responsible for added bits of provision for children, how are schools going to manage their resources coherently? And, all the work done with schools about provision mapping and managing their resources effectively might be hard to hang on to. The group reporter felt that she was adding her own views here, in expressing that there will inevitably be a waste of resources and a lack of focus.

The group wondered whether the individual budget could be a notional part of overall provision. Participants asked what would happen if the individual budget is not sufficient to cover the service? That is a really difficult issue and is almost certainly, it was felt, going to happen. And that led to talk about 'is this really just a cost cutting exercise?' as some parents are certainly suspect. But, there is a danger that it is going to be seen as a cost cutting exercise and actually be one. In discussing the infrastructure for SEN, one of the group made the point that the focus on particular SEN issues tends to neglect discussion about improving the quality of the school system as a whole and looking at the context within which SEN are met.

There was also discussion about the really interesting notion of collective parental choice as opposed to individual choice. This might make the system more responsive and be more coherent in a much more efficient way; by actually engaging with parents and having their voice heard, but doing it creatively and well. The group acknowledged the value of person centred planning (PCP) and did not want to lose that. But as was pointed out, all the principles of PCP are there in the Code of Practice.

The group discussion then went back to the idea that Sharon Hodgson raised about 'how do we encourage the whole school to focus on the progress of children with SEN?' The

group favoured the idea that the progress of children with SEN be part of the Ofsted framework and contribute to the final judgement. This would be very powerful and something certainly to be explored. This led to some talk about how to measure the progress of children; what would be realistic measures? Some considered the more radical line, rather than be stuck in a framework of thinking about SEN in introverted ways (doing away with the label of SEN) and start thinking that what is required is to teach children. Finally there was also a discussion about whether we wanted to encourage more teachers with disabilities to apply for and train to be teachers.

Group 3:

This group also had a wide-ranging discussion. The discussion started from the perspective that if this is all about really good teaching skills, then actually there is currently some incoherence at the moment about this focus. There have been some exciting developments about initial teacher training, but then there is not really a coherent system for continuous professional development. There is uncertainty over educational psychologists and the current funding around their training. So that needs to be a bit more coherent, and while the Green Paper obviously had a brilliant model in it around Achievement for All, it is not particularly clear about really bringing school leadership into supporting this model. Head teachers and school leadership have to buy into wanting to make this work. We still have a system of performance that operates around how well an institution performs rather than how well the individuals that go to that institution perform. So, you are going to have a dilemma with getting head teachers and senior leadership wanting to make this work.

It was good that the Green Paper focused on learning and achieving. The kind of expectations on teachers probably did not come out clearly enough in terms of expectations about teaching generally. If we started from a clearer idea of what all children should have as a reasonable entitlement at school, and looked at the whole school and what every child could expect, perhaps that would be the better place to start from. That is where there has been straying into and out of labelling; should there be labelling, should we have a SEN system, should we not have a SEN system?

There was discussion too about the fact that there are structural differences in terms of education in school and colleges. If it is difficult for professionals who have got different qualifications, different CPD, different access to both of those parts of the education system; so how hard is it for parents, families and young people as they try to navigate it? The group were doubtful that the Green Paper had addressed the questions about the new structures of schools and their impact on SE provision. That is probably something that needs further examination. The fact that there is a move to a landscape of institutional autonomy has an impact on accountability of local authorities and all kinds of schools. This is something to keep an eye on.

Group 4:

The discussion ranged backwards and forwards in this group too. The discussion started off by looking at what the Green Paper might be saying in terms of the statutory assessment process and what differences the health, education and care plan might mean. Were they in any way talking about the same group of children as they keep telling us they are, or whether actually it was a much narrower focus, and what that might mean for all the children that they were not including now. The group considered that there were other processes that are in place, such as the Common Assessment Framework, which actually covers a much wider group of youngsters; whether or not that is going to just diminish and disappear or whether it will be retained in some way.

It was also commented that the early intervention discussed in the Green Paper seems to be different from early intervention as previously understood. Now it seems to focus on intervention in the early years. This might imply that the EHC plan is about children who are going to identify almost at birth. This leaves questions about early intervention that is in the primary years, for difficulties that arise later in a child's development. It was also expressed that the system has been party to a number of political agendas and there has certainly been one about reducing statement numbers. In the majority of local authorities a lot of the money goes into ordinary schools, and is in schools to begin with. Authorities are not asking schools to label children in quite the way that as when the statementing process first came out years ago.

This raises questions about where this leaves the schools and authorities with this new national funding formula and the baseline of £10,000. Where does this scheme come from? There has also been talk about the idea that if children are to be successful it is the quality of provision and the quality of the teachers that actually matter. But, what seems to be happening is that teachers have got less time and less ability to be flexible in their responses. Some of the national programmes are now so prescriptive that teachers are not able to be responsive and to think outside the box.

This group also had a long discussion around the SENCO training and whether or not that was in some ways too academic and whether it actually prepared people for some of the practicalities of the role that they were doing. Did it allow them the freedoms to develop some of the conceptual thinking that they needed in their role.

Also discussed was the question of who monitors the quality of the provision? And, if that really is not about parents wanting choice (as mentioned by other groups), what is it that they want? It was felt that they want to know that their child is going to be in a good quality provision and there did not seem to be anything that was helping to ensure that all our provision was good quality (apart from if a school was excellent, it could expand).

There was also a discussion of the roll-out of the Achievement for All programme. Some commented that it was a very successful programme, as shown by a very good evaluation, but it was funded to the tune of £30 million. There was also a worry that the unit of SEN was Teaching Assistant time; that the structured conversation would be something that a TA had with a parent. The risk was that the structured conversation would become watered down.

There was also a worry about Ofsted's accountability system. Unless a school is making national levels of progress then the school is failing. One person mentioned a discussion recently with an Ofsted team in a primary school that tried to explain to the team that they had a resource provision for autistic children and therefore these children really could not be expected to make two levels of progress. Ofsted told them that 'you can say that about any school in the country'; this was not taken as confidence building. The worry is about how that is going to help parents make a judgement about good quality provision, so where are they going to get that information?

There was also discussion about the importance of CPD and particularly for class teachers. This was felt to be very important. Someone considered that there were several aspects of the Inclusion Development Programme (IDP) that were not brilliant, but one of the good things was that actually authorities got funding in order to roll it out to all schools and to make sure that it was promoted. Now there are the Teaching Agencies e-learning

materials about SEN that are well produced, but teachers and schools have got to find them; what if they do not know about them? The issues raised by the research about teaching assistants and the practical support systems that pupils with SEN require will lead schools and parents to battle with the question, 'what on earth am I going to spend my personal budget on?'